

## REMARKS

Upon entry of the foregoing Amendment, claims 1, 3-5, 10-12, 30-31, and 34-54 are pending in the application. Claims 1, 3-5, 10-12, and 30-31 have been amended. Claims 6, 13, 19, 21-27, and 32-33 have been cancelled without prejudice or disclaimer. Claims 34-54 have been newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and the following Remarks, allowance of all the pending claims is requested.

In addition, Applicant hereby expressly reserves the right to prosecute the subject matter of the claims prior to the foregoing Amendment or any other subject matter supported by the as-filed Specification in one or more continuation and/or divisional applications.

### **BOARD DECISION**

The Board has affirmed the Examiner's rejection of previously pending claims 1, 3-6, 10-13, and 30-33 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,446,200 to Ball et al. ("Ball"), or in the alternative, as allegedly being unpatentable over Ball. Board Decision, pages 2 and 11.

Applicant initially notes that claims 6, 13, and 32-33 have been cancelled as indicated above, and therefore the rejection has been rendered moot with respect to these claims. In addition, Applicant further notes that independent claim 1 has been amended as indicated above, and submits that Ball does not anticipate or render obvious currently pending claims 1, 3-5, 10-12, and 30-31 for at least the reason that Ball fails to disclose, teach, or suggest each and every feature of the claimed invention, as amended.

More particularly, Ball does not disclose at least the combination of features that includes "selecting one of the two or more network components that support the selected service, wherein the selected network component has a component parameter that measures a performance for the selected network component" and "identifying a function that defines a relationship between the component parameter for the selected network component and the service parameter for the selected service, wherein the identified function infers a value for

the service parameter from a value for the component parameter,” as recited in amended independent claim 1, for example.

Rather, Ball generally relates to a service management system in which a data collector layer collects network flow information from a plurality of network entities that support a particular service. In the Board Decision, the Board acknowledged that “Ball discloses **aggregating** the performance data for the devices to determine the quality of service in the network.” Board Decision, page 10 (emphasis added). However, in affirming the Examiner’s rejection, the Board alleged that “the resulting level of service is a by-product of the performance data for each of the specific devices,” and that “nothing in the claim . . . precludes the performance data for other devices from being used in conjunction with an identified device to determine the quality or level of an identified service in the network.” *Id.*

Although Applicant disagrees with the propriety of the Board’s allegations, solely in an effort to expedite prosecution of this application, independent claim 1 has been amended as indicated above to further clarify that although two or more network components support the selected service, a component parameter for a particular “one of the two or more network components” provides the relevant values for determining the service level for the selected service. In other words, because Ball generally describes a system in which summary network accounting records have “a one-to-many relationship” with activity network accounting records (col. 9, line 64 – col. 10, line 11), Ball does not disclose, teach, or suggest “selecting one of the two or more network components that support the selected service” and using a value obtained solely from the selected network component in a “function [that] infers a value for the service parameter.”

In addition, Applicant notes that the Board further alleged that “Ball’s disclosure of establishing a one-to-one relationship between the service level and the performance data of a specific device expressly teaches the claimed limitations.” Board Decision, page 10. However, as noted above, independent claim 1 has been amended to recite that “**two or more** of the plurality of network components in the network support the selected service,” whereas the passages in Ball cited by the Board do not describe a service that is supported by two or more network components. Specifically, the cited passages in Ball provide an example in which “a

service contract may specify that a company 'X' will be given 100% availability of a particular network device" (col. 33, lines 22-36), whereby the example relates to a service supported by one network device rather than two or more network devices, as claimed.

Thus, although this example describes "a one-to-one relationship between the policy and what the accounting process 14 will monitor in the network" (col. 33, lines 37-44), the cited example relates to a service that is only supported by one network component. In contrast, while independent claim 1 similarly a "function [that] infers a value for the service parameter from a value for the component parameter" according to one-to-one relationship, independent claim 1 further recites "selecting one of the **two or more** network components that support the selected service" to be used as the relevant network component in the function. As such, because the cited example in Ball does not relate to a service that is supported by two or more network components, the cited example fails to disclose, teach, or suggest the foregoing features recited in independent claim 1, for example.

Accordingly, for at least the foregoing reasons, Ball fails to disclose, teach, or suggest each and every feature recited in amended independent claim 1. Claims 3-5, 10-12, and 30-31 depend from and add features to amended independent claim 1. Thus, the rejection is improper and must be withdrawn for at least the reason that Ball fails to disclose, teach, or suggest each and every feature of the claimed invention, as amended.

#### **NEW CLAIMS 34-54**

For at least the reasons provided in further detail above, Ball fails to disclose, teach, or suggest each and every feature recited in amended independent claim 1.

New independent claim 40 includes features similar to those set forth in amended independent claim 1. New claims 34-39 and 41-54 depend from and add features to one of amended independent claim 1 and new independent claim 40. Thus, newly added claims 34-54 are allowable over Ball for at least the same reasons discussed in further detail above.

## CONCLUSION

Having addressed each of the foregoing issues decided by the Board, it is respectfully submitted that a full and complete response has been made to the outstanding Board Decision. As such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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